



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JHK Law
P O Box 1078
La Canada CA 91012-1078

MAILED

DEC 16 2010

PCT LEGAL ADMINISTRATION

In re Application of
BAMBAD, Cynthia C., et al.
Application No. 10/570,010
Int'l Filing Date: 26 August 2004
Attorney Docket No. 13150-70089US

:
:
: DECISION ON PETITION
: UNDER 37 CFR 1.78
:

This is a decision on the "Petition under 37 CFR 1.78(a)(3)", filed 15 June 2010, to accept delayed benefit claims under 35 U.S.C. § § 120 and 119(e) for the benefit of priority to nonprovisional and provisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED** as follows:

35 U.S.C. 120 states, in pertinent part:

An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

The present application was filed 26 August 2004. See 35 U.S.C. 363. The instant petition seeks to add a benefit claim under 35 U.S.C. 120 to U.S. application 12/695,070 filed 27 January 2010. As such, the petition cannot be granted, as U.S. application 12/695,070 is not an earlier filed application, as required under the statute.

Any inquiries concerning this decision may be directed to Erin Thomson at (571) 272-3292. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

/Boris Milef/

Boris Milef
PCT Petitions Examiner
Office of PCT Legal Administration